
EXECUTIVE DIRECTOR'S SUMMARY

This FY2003 Annual Report reflects the objectives accomplished and activities conducted by the agency necessary to implement its Strategic Plan. The agency continued to enjoy an excellent reputation with a broad range of customers as a consumer protection advocate and also has the support of its activities by the regulated profession.

Numerous accomplishments were achieved by TSBP staff that are highlighted at the beginning of each Division report. Although specific activities are highlighted under each Division Director's Objectives, TSBP experienced the following major accomplishments and constraints in FY2003.

AGENCY FY2003 SIGNIFICANT ACCOMPLISHMENTS

1. The agency accomplished or partially accomplished 100% of its 105 objectives [100 accomplished (95.2%) and 5 partially accomplished (4.8%)]. The agency also met or exceeded eight (73%) of its 11 key performance measures listed in the Appropriations Act, which are required to be reported on an annual basis to the Legislative Budget Board. The two cost measures (Average Cost of Issuing an Individual and Facility License) were not met because of the passage of S.B. 187 by the 77th Legislature. This bill mandated the agency to charge each licensee a subscription fee of \$10, payable to the Texas OnLine Authority. Targets for this performance measure were established before passage of this legislation. The third performance measure that was "not met" was the number of jurisdictional complaints received. This performance measure is one that cannot be controlled by the agency.
2. Significant efficiencies and/or benefits, primarily for Board customers, have been or will be gained through the implementation of a number of projects that included:
 - Implementation of the Pharmacist Online license renewal system;
 - Implementation of wireless handheld devices for inspection program; and
 - Active computer virus monitoring and firewall installation.
3. The agency continued its exemplary record of excellence in operation as evidenced by the following:
 - a 100% compliance rating by the Texas Building and Procurement Commission on the Pre-Payment & Procurement audit of service contracts;
 - a 98% compliance rating by the Texas Building and Procurement Commission on a Post-Procurement audit of service contracts;
 - an unqualified certification of the agency's FY2002 key performance measures, conducted by agency internal auditor; and
 - a January 2003 Department of Information Resources (DIR) controlled penetration test to assess the security of the agency's computer systems network, and a test of dial-up lines for modem access that resulted in an inability to penetrate the firewall's defenses that protect the internal network, and no vulnerabilities were found through the test of dial-up lines.

4. The agency received more complaints in FY2003 than it did during the prior four fiscal years, as indicated in the chart below. In addition, TSBP significantly improved the agency's complaint resolution time in FY2003: a 31% decrease from 221 days in FY2002 to 153 days in FY2003, as indicated in the chart below.

Year	Complaints Received	% Change Complaints Received Previous Year	Complaints Closed	% Change Complaints Closed Previous Year	% Complaints Closed	Resolution Time (Agency Average)	% Change Time
FY99	1533		1335		87%	221 Days	
FY00	1577	+3%	1513	+13%	96%	220 Days	-0.45%
FY01	1683	+7%	1667	+10%	99%	262 Days	+19%
FY02	1836	+9%	2137	+28%	116%	221 Days	-16%
FY03	1935	+5%	1887	-12%	97.5%	153 Days	-31%

5. In April 2003, TSBP implemented a new program that required new pharmacies to be inspected before receiving a pharmacy license. This procedure will help ensure that a pharmacy license (a license that allows an individual to purchase prescription drugs) is issued to legitimate operations. From May -August 2003 (four months of FY2003), Compliance Officers conducted 22 pre-inspections.
6. TSBP entered significantly more disciplinary orders in FY2003 than in any prior fiscal year (a 17% increase over FY2002). As indicated in the following chart, 98.1% of the disciplinary cases were settled through the entry of Agreed Board Orders, which resulted in significant efficiencies, both in terms of complaint resolution time and costs.

Fiscal Year	Number of Board Orders (BOs)	Number of Agreed Board Orders (ABOs)	Number of Disciplinary Orders (BOs & ABOs)	% Increase in Disciplinary Orders	% ABOs of Total Orders
FY99	0	108	108	—	100%
FY00	0	126	126	17%	100%
FY01	4	141	145	15%	97%
FY02	2	179	181	25%	98.9%
FY03	4	209	213	17%	98.1%
TOTAL	11	763	773	97% OVER 5 YRS.	98.7%

7. The following TSBP Board Members were appointed to offices, received honors, or received recognition in FY2003:
- A. Roger W. Anderson, Dr.P.H., R.Ph., was selected as a member of the National Association of Boards of Pharmacy (NABP) Task Force to Examine NABP's Data Resources.

- B. W. Michael Brimberry, R.Ph., MBA, was selected as a member of the NABP Committee on Law Enforcement and Legislation.
- C. Kim A Caldwell, R.Ph., served as chair of the NABP Task Force to Examine NABP's Data Resources.
- D. Rosemary Forester Combs was selected as a member of the NABP Committee on Law Enforcement and Legislation.
- E. Wiki Erickson, M.A., was selected as an alternate member of the NABP Task Force on Evaluation and Modification of the NABP Constitution and Bylaws.
- F. Doyle E. High, R.Ph., was selected as an alternate member of the NABP Committee on Constitution and Bylaws.
- G. Oren Peacock, R.Ph., was elected as the District 6 representative to the NABP Executive Committee; and served as chair of the NABP Task Force on Evaluation and Modification of the NABP Constitution and Bylaws.

AGENCY

FY2003 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

1. **Budget Reductions of FY2003:** In January 2003, agencies were informed of a projected overall budget shortfall of \$1.8 billion and instructed by the Governor, Lieutenant Governor, and Speaker of the House to reduce FY2003 budgets by 7%. Specifically, agencies were instructed to eliminate foreign travel and out-of-state travel not necessary for statutory obligations, reduce or eliminate planned capital purchases for the remainder of FY2003, and contracts for consultants and professional services. Further reductions to be considered included administrative costs, a hiring freeze or reduction in force if necessary, and reductions to current activities not required by law. The TSBP accomplished these reductions by outsourcing the agency lawbook, greatly reducing out-of-state travel, significantly reducing all other expenditures, and lapsing a number of vacant positions in the Enforcement Division for the remainder of FY2003.
2. **Legislative Changes due to State Fiscal Crisis:** The state budget for the FY2004/2005 biennium was balanced by closing a projected \$10 billion shortfall without raising taxes. However, a number of legislative changes that affect all state employees were enacted that reduced or will ultimately reduce the earning dollar of these employees. These legislative changes included:
 - reducing the budgets of state agencies, which, in many cases, means a reduction or elimination of merit pay for outstanding performance;
 - significant increases to out-of-pocket costs for health coverage by all state employees;
 - reduced state contribution of health care coverage for part-time employees;

- implementing a 90-day waiting period for health insurance and state retirement contribution for new state employees;
- increasing the minimum age for retiree insurance; and
- allowing a lump sum incentive payment for eligible retirees, which must be paid out of agency appropriations, thus reducing the funds available to the agency.

3. Employee Turnover: TSBP experienced significant turnover of employees in FY2003 with a total of eight employees leaving employment with the agency. Included in this number were two long-term employees as follows:

- Division Professional Services Director Steve Morse, R.Ph., resigned after 19 years of dedicated service to the Board. Due to the Director's resignation, many of the responsibilities of the Division were delegated to other Divisions within the agency for the remainder of FY2003.
- After 21 years of loyal service to TSBP, Chief Compliance Officer Cy Weich, R.Ph., retired at year-end FY2003 (effective August 31, 2003). Mr. Weich was consistently a top performer, providing assistance and guidance to pharmacists who appreciated his experience, insight, and expertise.

OFFICE OF THE EXECUTIVE DIRECTOR FY2003 ANNUAL REPORT

GOAL

To provide policy advice to the Board, implement Board policies, and manage the organization in a manner that will accomplish the stated mission, goals, and objectives of the agency.

Objectives (New)

1. To provide testimony, attend public hearings, and provide any fiscal or technical information, as required by the 78th Legislature, and to review all legislation introduced by the 78th Legislature and monitor the progress of any legislation that has a potential impact on TSBP operations or the practice of pharmacy throughout FY2003.

Status: ACCOMPLISHED

Comment: During this fiscal year, the following was accomplished in regard to this objective:

- A. A total of 6,208 bills were introduced in the 78th Regular Legislative Session, and the 1st, 2nd, and 3rd Called Sessions. The Executive Director reviewed or assigned a staff member to review each of these bills. A total of 446 bills that affected the agency or the practice of pharmacy were tracked and monitored as follows.

78 th Legislature, Regular Session				
	Session Totals		TSBP Tracked Bills	
	Filed	Passed	Filed	Passed
House	3,736	839	270	52
Senate	2,018	565	143	51
Regular Session Totals	5,754	1,404	413	103

78 th Legislature, 1 st Called Session				
	Session Totals		TSBP Tracked Bills	
	Filed	Passed	Filed	Passed
House	151	4	15	0
Senate	65	1	3	0
1 st Called Session Totals	216	5	18	0

78 th Legislature, 2 nd Called Session				
	Session Totals		TSBP Tracked Bills	
	Filed	Passed	Filed	Passed
House	62	0	5	0
Senate	10	0	1	0
2 nd Called Session Totals	72	0	6	0

78 th Legislature, 3 rd Called Session				
	Session Totals		TSBP Tracked Bills	
	Filed	Passed	Filed	Passed
House	126	11	7	3
Senate	40	3	2	0
3 rd Called Session Totals	166	14	9	3
Grand Totals	6,208	1,423	446	106

- B. The Executive Director met with Legislators or others or testified before Legislative committees a total of 17 times as follows.

Date	Legislator or Committee
9/5/02	Legislative Budget Board Staff Hearing on Budget
9/24/02	Senate Public Health Meeting on Interim Charges
10/1/02	Meeting with Staff of Governor Perry's Office to Discuss Legislative Appropriations Request
2/11/03	Senate Finance Committee Hearing (SB 1)
2/14/03	House Appropriations Committee Hearing (HB 1)
2/19/03	House Public Health Committee Meeting
2/19/03	House Government Reorganization Committee Meeting
3/5/03	Meeting with an Individual Concerning SB 939
3/10/03	Senate Nominations Committee Hearing — Confirmation Hearing for New Board Members
3/17/03	Senate Health and Human Services Committee Meeting (HB 1686)
3/18/03	Senate Health and Human Services Committee Meeting (SB 144, SB 939 and SB 803)
3/20/03	Meeting with Senate Staff (SB 1746)
3/25/03	Meeting with HPC meeting (HB 2985)
3/26/03	House Public Health Committee Hearing (HB 2985)
3/28/03	Senate Finance Committee Hearing (SB 1)

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Date	Legislator or Committee
4/24/03	House Public Health Committee Hearing (HJR 120, HB 3486, HB 1381, and HB 2996)
4/30/03	House Public Health Committee Meeting (HB 963, HB 2046, HB 3451, SB 939, and SB 803)
5/4/03	Conference Committee Hearing on HB 1
7/10/03	House Appropriations Committee Meeting (HB 74)

C. Significant legislation passed by the 78th Legislature that will impact the operation of the agency and/or the practice of pharmacy in Texas included:

1. H. B. 1 - Appropriations Act

(A) The FY2004-2005 base appropriation to the agency was approximately 12.5% less than the FY2002-2003 biennium. The agency FTE cap was reduced by two, to 45 employees.

(B) A rider to implement the registration of pharmacy technicians is contingent upon the agency generating \$246,432 in excess of \$3,651,000 (Object Code 3562) in fiscal year 2004 and \$479,837 in excess of \$3,881,000 (Object Code 3562) in fiscal year 2005. If this additional revenue is generated, the agency would be:

(1) appropriated an additional \$246,432 in fiscal year 2004 and \$479,837 in fiscal year 2005; and

(2) the FTE cap is increased by 3 to 48 in FY2004 and by 6 to 54 in FY2005.

2. H.B. 7 - Supplemental Appropriations - FY2003. This bill:

(A) cuts FY2003 expenditures by 7%.

(B) redirected revenue received from the sale of surplus property in FY2003, to General Revenue.

3. H.B. 1166 - Online license information to Department of Information Resources (DIR)

(A) This bill specifies that:

(1) DIR must establish a system that will allow a person regulated by one or more licensing authorities to file a single change of address online, and DIR must provide the new address to each appropriate licensing authority.

- (2) DIR may expand the system to include additional categories of updated information that license holders may need to provide to more than one licensing authority; and
 - (3) If the DIR uses TexasOnline to implement the system, they may recover costs.
 - (B) Licensing agencies shall electronically share information regarding license holders, especially information regarding disciplinary information, with other licensing agencies to the extent it is feasible to do so and allowed by other law, under appropriate controls for the privacy, security, accuracy, and, when applicable, confidentiality of the information.
4. H.B. 9 - relating to Homeland Security.
This bill adds a new Section 562.055, (titled Report to Texas Department of Health) to the Texas Pharmacy Act (Occupations Code, Subchapter J). This new section requires a pharmacist to report to the Texas Department of Health *“any unusual or increased prescription rates, unusual types of prescriptions, or unusual trends in pharmacy visits that may be caused by bioterrorism, epidemic or pandemic disease, or novel and highly fatal infectious agents or biological toxins that might pose a substantial risk of a significant number of human fatalities or incidents of permanent or long-term disability.”*
5. H.B. 1095 - relating to the authority of advanced practice nurses and physician assistants to administer, provide, and carry out or sign a prescription drug order. This bill amends the definition of practitioner in Section 551.003 (34) of the Texas Pharmacy Act (Occupations Code, Subchapter J) and Section 483.001 (12) of the Texas Dangerous Drug Act (Health and Safety Code, Chapter 483) to include this new authority for advanced practice nurses and physician assistants.
6. H.B. 1686 - relating to pharmacies that maintain emergency medication kits at certain institutions.
This bill amends Section 562.108(a) of the Texas Pharmacy Act (Occupations Code, Subchapter J) to allow a Class E (Non-Resident) Pharmacy to maintain drugs in an emergency medication kit in a nursing home in this state provided the pharmacy is not more than 20 miles from the pharmacy.
7. S.B. 957 - relating to emergency medication kits maintained for a veterans home. This bill also amends Section 562.108(a) of the Texas Pharmacy Act (Occupations Code, Subchapter J) to allow a United States Department of Veterans Affairs pharmacy or another federally operated pharmacy to maintain drugs in an emergency medication kit in a veterans home.

8. H.B. 2292 - relating to state policy relating to financing of certain health and human services programs.
 - (A) This bill adds a new Section 562.1085, (titled Unused Drugs Returned by Certain Pharmacists) and a new Section 562.1086, (titled Limitation on Liability), to the Texas Pharmacy Act (Occupations Code, Subchapter J). New Section 562.1085 allows a consultant pharmacist in a nursing home to return to a pharmacy certain unused drugs, other than a controlled substance, that were purchased from the pharmacy. The section further specifies what drugs are eligible for return to a pharmacy.
 - (B) Section 562.1086 limits the liability of pharmacists who return the drugs and pharmacies that accept return of the drugs. The bill requires the Board of Pharmacy to adopt rules to implement these new sections by December 1, 2003.
9. H.B. 2376 - relating to the correction or removal from the statutes of obsolete references regarding the surety bonds of state officers and employees. This bill repeals Section 554.108 of the Texas Pharmacy Act (Occupations Code, Subchapter J).
10. S.B. 144 - relating to the requirement that certain information be provided to health care practitioners regarding the use and abuse of certain drugs.
 - (A) This bill adds a new Section 554.014 (titled Information Provided to License Holders) to the Texas Pharmacy Act (Occupations Code, Subchapter J), and new 554.015 (titled Poison Control Center Information). Section 554.014 requires the Board of Pharmacy to provide information at least every two years to license holders on:
 - (1) prescribing and dispensing pain medications, with particular emphasis on Schedule II and Schedule III controlled substances;
 - (2) abusive and addictive behavior of certain persons who use prescription pain medications;
 - (3) common diversion strategies employed by certain persons who use prescription pain medications, including fraudulent prescription patterns; and
 - (4) the appropriate use of pain medications and the differences between addiction, pseudo-addiction, tolerance, and physical dependence.
 - (B) Section 554.015 requires the Board of Pharmacy to provide to licensees, information regarding the services provided by poison control centers.

- (C) This bill requires this same information be provided to licensees by the Medical, Dental, Nursing, Chiropractic and Optometry Boards. The bill requires the Boards by January 1, 2004, to:
 - (1) cooperate in developing the materials; and
 - (2) ensure, to the extent possible, that the same information is contained in the materials used by each agency.
- 11. S.B. 803 - relating to the advertisement and promotion of certain compounded drug products by a pharmacy or pharmacist.
 - (A) This bill adds a new Section 562.151 (titled Compounding Service and Compounded Drug Products). The new section specifies that a compounding pharmacist or pharmacy may advertise or promote:
 - (1) non-sterile prescription compounding services provided by the pharmacist or pharmacy; and
 - (2) specific compounded drug products that the pharmacy or pharmacist dispenses or delivers.
 - (B) The new section tracks a recent United States Supreme Court Decision regarding the advertising of compounded products by a pharmacy.
- 12. S.B. 939 - relating to the ratio of pharmacists to pharmacy technicians in certain pharmacies.

This bill creates a new Section 568.006 of the Texas Pharmacy Act (Occupations Code, Subchapter J), (titled Ratio of Pharmacists to Pharmacy Technicians). The section allows the ratio of pharmacists to pharmacy technicians to be 1 to 5 in a pharmacy that dispenses not more than 20 different prescription drugs and does not produce intravenous or intramuscular drugs on-site.
- 13. S.B. 1315 - relating to the establishment of pharmacy license classifications by the Texas State Board of Pharmacy.
 - (A) This bill creates a new Section 560.063 of the Texas Pharmacy Act (Occupations Code, Subchapter J) (titled Establishment of Additional Pharmacy Classifications). The new section allows the Board of Pharmacy, by rule, to establish a new class of pharmacy license if the Board determines that:
 - (1) the practice setting will provide pharmaceutical care services to the public;
 - (2) the existing classifications of pharmacy licenses are not appropriate for that practice setting; and
 - (3) establishment of a new classification of pharmacy license is necessary to protect the public health, safety, and welfare.

- (B) The bill also adds a new subsection (g) to Section 562.101 of the Texas Pharmacy Act (Occupations Code, Subchapter J). This new subsection allows the Board to adopt rules regarding the pharmacist supervision of a pharmacy created under new Section 560.063. The supervision must require at least continuous supervision by a pharmacist according to the needs of the pharmacy.

2. To direct the submission of, provide testimony for, and monitor the progress of the agency's *Legislative Appropriation Request* and corresponding performance measures for FY2004-2005.

Status: **ACCOMPLISHED**

Comment: In January 2003, agencies were informed of a projected overall budget shortfall of \$1.8 billion and instructed by the Legislative Leadership to reduce FY2003 budgets by 7%. Specifically, agencies were instructed to eliminate foreign travel and out-of-state travel not necessary for statutory obligations, reduce or eliminate planned capital purchases for the remainder of FY2003, and contracts for consultants and professional services. Further reductions to be considered included administrative costs, a hiring freeze or reductions in force, if necessary, and reductions to current activities not required by law. The TSBP accomplished these reductions by outsourcing the agency lawbook, eliminating out-of-state travel, significantly reducing all other expenditures, and lapsing a number of vacant positions in the Enforcement Division for the remainder of FY2003.

In addition, agencies were asked to review their core functions and essential services and reduce their current funding budget for FY2004/2005 by 12.5%. As the 78th Legislative Session progressed, several different budget scenarios were presented to the LBB. Performance measures, capital budgets, and rider language were continuously revised to accommodate the 12.5% budget reduction mandate. Preliminary budget hearings were held in September and October 2002, and public hearings/markup were held in February 2003 with the Senate Finance Committee, House Appropriations Committee, and the House Committee on Government Reform. The final budget passed in May 2003 with mixed results.

The agency's base appropriation was reduced by 12.5%, but the Legislature approved additional appropriations to fund the Pharmacy Technician Registration Program and corresponding Texas Online subscription fee, and funding for the newly created Office of Patient Protection. Significant reductions occurred in the areas of travel, salaries, information resource technologies, vehicles, agency newsletter, registration and training, and merit pay. The budget reductions occurred at the same time that new funding was approved to implement the existing agency statutory mandate, the registration of pharmacy technicians. As a result, although there was a net increase over the biennium, the agency will be doubling its population of licensees in FY2004, and this will cause a dramatic increase in the public's demand for agency services in every area of its operation.

3. To direct the agency response to the Sunset Review process including the preparation of the agency self-evaluation report throughout FY2003.

Status: **ACCOMPLISHED**

Comment: The Executive Director attended a meeting with the staff of the Sunset Advisory Commission on May 19, 2003, to discuss the Sunset Review process. On June 6, 2003, the Commission sent TSBP the 21 pages of written instructions for completing the agency's Self-Evaluation Report (SER). On June 20, 2003, the Executive Director met with management staff to discuss timelines and assignments. The SER was submitted to the Sunset Advisory Commission by the approved due date (August 20, 2003).

4. To direct the planning for implementation of the new program to register and regulate pharmacy technicians, if the program is funded by the 78th Texas Legislature.

Status: **ACCOMPLISHED**

Comment: The 78th Texas Legislature appropriated approximately \$726,000 for the agency to implement pharmacy technician registration during the FY2004-2005 biennium. A project timeline was developed, and during the time period May - August 2003, five staff meetings and two meetings with the agency's computer resources vendor (Northrop Grumman) were held to discuss the various tasks and milestones that would be required in FY2004 to ensure the success of this major project. Revenue projections were compiled, and rules regarding the registration fees for pharmacy technicians were proposed at the August 2003 Board Business Meeting.

5. To coordinate and participate in the orientation of newly-appointed Board Members within 90 days of their appointment by the Governor.

Status: **ACCOMPLISHED**

Comment: An orientation for new Board member, Juluette F. Bartlett-Pack, Ph.D., public member, was held on February 28 - March 1, 2003.

Objectives (Ongoing)

1. To manage and monitor the agency's performance and operational efficiency throughout FY2003.

Status: **ACCOMPLISHED**

Comment: The agency accomplished or partially accomplished 100% of its 105 objectives [100 accomplished (95.2%) and 5 partially accomplished (4.8%)]. The agency also met or exceeded eight (73%) of its 11 key performance measures listed in the Appropriations Act and required to be reported on an annual basis to the Legislative Budget Board as indicated below. The two cost measures (Average Cost of Issuing an Individual and Facility License) were not met because of the passage of S.B. 187 by the 77th Legislature. This bill mandated the agency to charge each licensee a subscription fee of \$10, payable to the Texas OnLine Authority. Targets for this performance measure were established before passage of this legislation. The third performance measure that was "not met" was the number of jurisdictional complaints received. This performance measure is one that cannot be controlled by the agency.

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Performance Measure		FY03 Projected Performance	FY03 Performance Attained	Projected Target Met?*
A. Goal: Maintain Standards - To establish and implement reasonable standards for pharmacist education and practice, and for the operations of pharmacies to assure that safe and effective pharmaceutical care is delivered to the citizens of Texas.				
Outcome (Results/Impact)				
Percent of Licensees with No Recent Violations		99%	96.68%	Met
A.1.1. Strategy: Licensing - To operate a timely, cost-effective application and renewal licensure system for pharmacies and pharmacists.				
Output (Volume)				
Number of New Licenses Issued to Individuals		800	806	Exceeded
Number of Licenses Renewed (Individuals)		10,450	11,005	Exceeded
Efficiencies				
Average Licensing Cost Per Individual License Issued		\$9.07	\$18.19	Not Met
Average Licensing Cost Per Facility License Issued		\$31.20	\$41.14	Not Met
Explanatory				
Total Number of Business Facilities Licensed		5,480	5,794	Exceeded
B. Goal: Enforce Regulations - To assertively and swiftly enforce all laws relating to the practice of pharmacy to ensure that the public health and safety is protected from unprofessional conduct, fraud, and misrepresentation, and to prevent the misuse, abuse, and diversion of prescription drugs from pharmacies.				
Outcome (Results/Impact)				
Percent of Jurisdictional Complaints Resulting in Disciplinary Action		10%	11.89%	Exceeded
B.1.1. Strategy: Enforcement - Emphasize preventative enforcement by conducting compliance inspections of pharmacies; providing technical assistance, licensee information and educational programs; receiving, investigating, and resolving complaints; and monitoring compliance with disciplinary orders resulting from board adjudication.				
Output (Volume)				
Number of Jurisdictional Complaints Resolved		1,300	1,850	Exceeded
Efficiencies				
Average Time for Jurisdictional Complaint Resolution		350	155	Exceeded
Explanatory				
Number of Jurisdictional Complaints Received		2,000	1,893	Not Met
B.1.2. Strategy: Peer Assistance - Operate a peer assistance program.				
Output (Volume)				
Number of Licensed Individuals Participating in a Peer Assistance Program		150	173	Exceeded

* Within a 5% variance, TSBP's actual performance was either: equivalent to projected performance ("Met"); better than projected performance ("Exceeded"); or fell below projected performance ("Not Met").

- To coordinate the development of proposed goals and objectives and budget for FY2004, based on the *Strategic Plan* and projected budget, for submission to the Board two weeks prior to the 2003 Annual Policy Meeting.

Status: ACCOMPLISHED

Comment: The TSBP 2004 Goals and Objectives and FY2004 operating budget were submitted to the Board as scheduled and were approved by the Board at its August 5-6, 2003, Board Business Meeting.

3. To direct TSBP's "lead agency approach" to help assure coordination of TSBP activities with those of other state and federal agencies involved in the regulation of the practice of pharmacy throughout FY2003.

Status: ACCOMPLISHED

Comment: The agency's Enforcement, Compliance, Investigations, and Legal staffs worked extensively with federal, state, and local regulatory agencies. (See Enforcement Division's Ongoing Objective #4 and Legal Division's Ongoing Objective #8 for details of these cooperative efforts.)

4. To review all federal statutes, regulations, and policies that may impact the regulation of the practice of pharmacy and make timely recommendations to the Board for implementation of any required Board actions throughout FY2003.

Status: ACCOMPLISHED

Comment: During FY2003, the Executive Director reviewed the United States Supreme Court Decision (Thompson et al. v. Western States Medical Center et al., U.S. Supreme Court Case No. 01-344, Decided April 29, 2002). This decision upheld the lower court's decision and deleted the pharmacy compounding provisions contained in the Food and Drug Administration Modernization Act of 1997. This action left the federal law without any provisions that allowed pharmacy compounding. A Board-appointed Task Force on Compounding met two times during this fiscal year to discuss pharmacy compounding and presented recommendations to the Board at the August 2003 meeting.

5. To personally participate and represent Board policies and programs to local, state, and national pharmacy, health-related, and consumer organizations during FY2003.

Status: ACCOMPLISHED

Comment: A. The Executive Director gave 12 presentations to 1,450 persons as indicated below.

Date	Name of Association/Location of Meeting	Attendance (Approximate)
9/14/02	Board of Pharmacy Update, University of Texas Postgraduate Seminar — Austin	500
9/30/02	University of Texas Law Class — Austin	65
10/1/02	Texas Department of Human Services Vendor Drug Pharmacists – Austin	20
10/4/02	Texas Federation of Drug Stores Annual Meeting – Austin	50
10/26/02	Texas Pharmacy Association's West Texas Educational Fair – El Paso	75
10/31/02	National Association of Boards of Pharmacy/American Association of Colleges of Pharmacy 6 th District Meeting – St. Louis, MO	100
3/8/03	El Paso Society of Health-System Pharmacists Annual Frontiers in Pharmacy Seminar	100
4/5/03	Board of Pharmacy Update, Texas Society of Health-System Pharmacists Annual Seminar – Arlington	60

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Date	Name of Association/Location of Meeting	Attendance (Approximate)
5/2/03	Board of Pharmacy Update, West Texas Pharmaceutical Association's Annual Meeting – Amarillo	75
7/17/03	Preceptor Training, Texas Pharmacy Association – Galveston	30
7/19/03	TSBP Forum, Texas Pharmacy Association's Annual Meeting – Galveston	300
8/24/03	Pharmacy Peer Review, National Association of Chain Drug Stores Pharmacy and Technology Conference – Philadelphia, PA	75
TOTALS		1,450

B. The Executive Director attended 19 meetings or conferences representing the agency as indicated below.

Date	Name of Association/Location of Meeting
9/10/02	Texas Conference for Women – Austin
10/1/02	Meeting with staff of the Governor's Office – Austin
10/2-10/3/02	Texas Tech School of Pharmacy Dean's Advisory Council Meeting – Amarillo
1/17/03	Task Force on Compounding Meeting – Austin
1/22/03	Meeting with representatives of PurduePharma – Austin
2/3/03	State Employees Charitable Campaign Awards Ceremony – Austin
2/10/03	Meeting with representatives of the Attorney General's Office regarding Internet Pharmacy – Austin
2/11/03	Senate Finance Committee Meeting – Austin
2/12/03	Federal Food and Drug Administration Conference Call on the Importation of Prescription Drugs – Austin
2/24/03	Meeting with representatives of Albertson's – Austin
3/7/03	Meeting with representatives of HEB – Austin
3/26/03	House Public Health Committee Hearing (SB 2985) – Austin
3/31/03	Meeting with representatives of PCS – Austin
4/29/03	Meeting with TSBME regarding Online Pharmacies – Austin
5/6/03	Conference Call with representatives from Baxter – Austin
5/19/03	Orientation of the Sunset Process – Austin
5/27/03	Meeting with Director of the Pharmacists Recovery Network – Austin
6/12/03	Meeting with representatives of Medco Health – Austin
6/17/03	Meeting with representatives of FDA regarding online pharmacies – Austin

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6. To act as the Board's liaison to the pharmacy professional associations throughout FY2003.

Status: **ACCOMPLISHED**

Comment: The Executive Director attended 11 meetings of professional associations and committees of the associations to serve as a liaison to the Board as follows.

Date	Name of Association/Location of Meeting
10/4/02	Texas Federation of Drug Stores Annual Meeting – Austin
10/26/02	Texas Pharmacy Association's West Texas Educational Fair – El Paso
10/31-11/2/03	National Association of Boards of Pharmacy/American Association of Colleges of Pharmacy District 6 Meeting – St. Louis, Missouri
11/12/02	Joint Committee on Internship Programs Meeting – Austin
11/12-11/13/02	Texas Pharmacy Congress Meeting – Austin
11/14-11/17/02	National Association of Boards of Pharmacy Fall Educational Conference – San Antonio
1/13/03	Meeting with representatives of the Texas Society of Health-System Pharmacists – Austin
3/20/03	Texas Pharmacy Association's Academy of Consultant Pharmacists
5/9/03	Meeting with representatives of TSHP – Austin
5/27-5/28/03	Texas Pharmacy Congress Meeting - Austin
8/19-8/20/03	Texas Pharmacy Congress Meeting – Austin

7. To continue to take a proactive role in the operation of the Health Professions Council in cooperation with other member health regulatory agencies, the Legislature, and the Governor's Office during FY2003.

Status: **ACCOMPLISHED**

Comment: The Executive Director continued to serve as Vice-Chair of the Health Professions Council (HPC). The following chart shows the involvement in HPC activities.

Date	Activity
9/16/02	Health Professions Council Meeting
12/9/02	Health Professions Council Meeting
12/9/02	HPC Administrative Committee Meeting
12/17/02	HPC Administrative Committee Meeting
1/30/03	HPC Administrative Committee Meeting
2/20/03	HPC Administrative Committee Meeting
3/4/03	Health Professions Council Meeting

EXECUTIVE DIRECTOR

Date	Activity
3/31/03	HPC Budget and Administration Committees Meeting – Austin
6/23/03	Health Professions Council Meeting
7/8/03	HPC IT Consolidation Committee Meeting – Austin
8/1/03	HPC IT Consolidation Committee Meeting – Austin
8/7/03	HPC Budget and Planning Committee Meeting – Austin
8/12/03	HPC IT Consolidation Committee Meeting – Austin
8/29/03	HPC IT Consolidation Committee Meeting – Austin

8. To continue to support and participate in the Texas Pharmacy Congress throughout FY2003.

Status: **ACCOMPLISHED**

Comment: The Executive Director attended all four of the Texas Pharmacy Congress (TPC) meetings held in November 2002, February 2003, May 2003, and August 2003 and provided staff support to President Roger Anderson, Dr.P.H., R.Ph., and Vice President Doyle High, R.Ph., at these meetings.

9. To recommend changes to the Texas Pharmacy Act and rules, which will enhance the agency's ability to protect the public health, safety, and welfare, or will improve the efficiency and effectiveness of the agency's operations, and forward the recommendations to the Board for consideration for action throughout FY2003.

Status: **ACCOMPLISHED**

Comment: The agenda for each meeting of the Board included discussion of possible suggestions for changes to the Pharmacy Act. As a result of these discussions, the Board approved the following for inclusion in the Sunset Self Evaluation Report.

A. Pharmacy Practice Issues

1. Drug therapy management authority – Amend the Texas Pharmacy Act and Chapter 157 of the Medical Practice Act to allow pharmacists the authority to carry out or sign prescription drug orders.
2. Administration of drugs – Amend the Texas Pharmacy Act to clarify a pharmacist's authority to administer medications.
3. Pharmacist professional discretion – Clarify that pharmacists have professional discretion when deciding to dispense a prescription or medication order.

4. Pharmacy Peer Review – Currently, the Texas Peer Review authority does not include a provision that specifies the Board may require all pharmacies to establish peer review programs. Because of the broad authority for rule making included in the Pharmacy Act, the Board could adopt rules that require such a program. However, this authority would be clear if the Act were amended to specify the Board has the authority to mandate peer review.
5. Preventing medication errors by requiring prescriptions to be legible – Recently, Florida has passed a law that requires the practitioner to legibly print or type a prescription, so it is “capable of being understood by the pharmacists filling the prescription.” Texas laws could be in a similar fashion.
6. Valid practitioner-patient relationship – Amend the Texas Pharmacy Act to specifically state that a pharmacist cannot dispense a drug he knows or should have known is not based on a valid practitioner-patient relationship, and define the parameters which constitute such a relationship.

B. Enforcement Related Issues

1. Disciplinary grounds for pharmacists
 - (A) Modify disciplinary grounds to allow the agency to discipline a pharmacist for the following:
 - (1) not properly supervising pharmacy technicians;
 - (2) violation of disciplinary order; and
 - (3) violation of contract with a committee of a professional society with a program to aid licensees impaired by chemical abuse or mental or physical illness.
 - (B) Give the Board the option to make a second order against a person who has a chemical, mental, or physical impairment non-confidential.
 - (C) Allow the Board to discipline a licensee:
 - (1) who has been convicted of or received deferred adjudication for a misdemeanor or a felony involving a violation of the Dangerous Drug or Controlled Substances Acts;
 - (2) who has been convicted of or received deferred adjudication for a misdemeanor involving moral turpitude or a felony; and
 - (3) when a disciplinary action has been imposed in another state without limiting the type of disciplinary action.

2. Disciplinary grounds for pharmacies located in Texas – Modify the disciplinary grounds for pharmacies to allow the agency to take disciplinary action when:
 - (A) a pharmacy has been subject to disciplinary action by another jurisdiction's licensing agency. This change would allow the agency to take disciplinary action without having to prove the merits of the case, based on the due process received in another state, so long as the violation would also be a violation of Texas law;
 - (B) the owner or managing officer has violated the drug laws under the Texas Controlled Substances Act, the Texas Dangerous Drug Act, the Comprehensive Drug Abuse Prevention and Control Act of 1970, and certain provisions of the Health and Safety Code relating to Abusable Volatile Chemicals; and
 - (C) the pharmacy has audit shortages.
3. Disciplinary grounds for pharmacies located outside of Texas – Modify the disciplinary grounds for pharmacies to allow the agency to take disciplinary action against an out-of-state pharmacy for the same reasons as a pharmacy located in Texas. An out-of-state pharmacy that ships into Texas should be required to follow the same laws as a pharmacy located in Texas, unless complying with Texas law would violate the other state's law. This change would place in-state and out-of-state pharmacies on a level playing field and allow the Board to consistently and fairly enforce the pharmacy laws of the state.
4. Disciplinary grounds for pharmacy technicians – Allow the Board to discipline a pharmacy technician for grounds similar to those of a pharmacist, including engaging in unprofessional conduct, as defined by Board rule, or acting in a negligent manner. This change would allow the Board to take action against a technician for those acts that the technician should be held responsible for, and would allow for a similar range of disciplinary grounds for all licensees.
5. Disciplinary sanctions for pharmacies or pharmacists – Remove the restriction for limited sanctions for rule violations and allow the Board to determine the sanction based on the severity of the violation, and add the ability to impose general terms and conditions as part of a probation. These changes should result in overall fairness and consistency in disciplinary actions.
6. Disciplinary sanctions for interns – Allow for a greater range of disciplinary sanctions, such as reprimand, administrative penalty, or probation, similar to the sanctions allowed for other licensees. This change allows the Board to discipline a pharmacist-intern for minor violations without either restricting the internship or denying the ability to participate in the internship completely.

7. Disciplinary sanctions for pharmacy technicians – Allow for a greater range of disciplinary sanctions, such as reprimand, administrative penalty, restriction, or probation, similar to the sanctions allowed for other licensees. This change allows the Board to discipline a pharmacy technician without requiring that he/she cease practicing. Also, allow the Board to reinstate a registration if a pharmacy technician has demonstrated rehabilitation.
8. Emergency suspension process – Modify the procedure to allow a panel of the Board to hear the temporary suspension hearing and proceed to the State Office of Administrative Hearings for a hearing under the Administrative Procedure Act. The ability to suspend the license without notice or hearing should be maintained so long as disciplinary action is instituted at the same time and an informal conference is held within a specified period of time. The ability for the panel to meet by telephone should also be included to expedite the hearing if the public is endangered by not acting immediately.
9. Maintenance of pharmacy records – Amend the Pharmacy Act to provide for a specific record retention period for prescription records maintained by a pharmacy of a minimum of five years from the date of dispensing.
10. Cancellation of license – Return the ability to cancel a license by amending Section 565.051 of the Pharmacy Act.
11. Authorization for inspections – Expand the Board's inspection authority to include the ability to enter a pharmacy for general regulation purposes.
12. Access to financial and pricing data – Expand the Board's inspection authority to include the ability to inspect financial data, sales data, and pricing data.

C. Miscellaneous Issues

1. Licensing procedures – Modify Sections 558.051 and 558.101 of the Pharmacy Act for pharmacists' qualifications for license and Section 568.002 for pharmacy technicians to include a provision that the applicants be in the United States legally and be legally able to work prior to issuing a license for pharmacists and pharmacy technicians.
2. Board member qualifications – Amend Section 555.004(b) of the Pharmacy Act to allow faculty members of colleges of pharmacy to serve on the TSBP. This change would allow for valuable input from a section of pharmacy practice that has not previously been represented on the Board.
3. Confidentiality of pharmacist home addresses – Amend the Texas Pharmacy Act, or other appropriate act, to allow home addresses of pharmacists to be exempted from release under the Texas Public Information Act. This amendment would protect this private information from public disclosure.

4. Non-pharmacist preceptor – Amend the Texas Pharmacy Act to allow a non-pharmacist to be a preceptor under certain limited circumstances in college-based internship programs.
 5. Board member per diem – Amend the Pharmacy Act, Section 552.009, to indicate that all travel expenses, including meals and lodging, are reimbursable. This amendment would make the Pharmacy Act consistent with other state law, and allow for Board Members who are serving in the public interest to be reimbursed for expenses directly related to their service to the public.
 6. Peace Officers ability to carry a firearm and arrest – Amend the Pharmacy Act to allow peace officers to carry a firearm in limited situations and to make arrests. The ability to carry a firearm would be limited to carrying the firearm outside a pharmacy unless a life-threatening situation exists.
10. To conduct periodic reviews and annual evaluations of Division Directors and the Executive Assistant and to monitor evaluations of employees in all Board Divisions throughout FY2003.

Status: **ACCOMPLISHED**

Comment: Performance evaluations were conducted for the Division Directors and the Division Employees as indicated below.

Employee	Date of Evaluation	Person Conducting Evaluation
Kerstin Arnold	8/28/03	Gay Dodson
Carol Fisher	8/29/03	Gay Dodson
Estella Casarez	8/28/03	Kay Wilson
Steve Morse	Resigned May 31, 2003	
Cathy Stella	8/26/03	Gay Dodson
Kay Wilson	8/19/03	Gay Dodson

Division staff participated in professional and interpersonal development seminars, cross training and on-the-job training throughout FY2003 as follows:

Kay Wilson, Executive Assistant
EAP Presentations on Stress Reduction
Orientation Session for Coordinators of the State Employees Incentive Program
Texas Department of Health Seminar on the Development of Wellness Programs
AED/CPR Training
State Travel Training Seminar
Survey of Organizational Excellence ACT Committee

EXECUTIVE DIRECTOR

Estella Casarez, Receptionist

EAP Presentation on Stress Reduction

Hobby Building Tenant Meetings

11. To provide the Board's Executive Committee information necessary to conduct performance evaluation of the Executive Director by August 31, 2003.

Status: **ACCOMPLISHED**

Comment: A self and staff evaluation of the Executive Director was presented to the Board at its August 2003 meeting. The Board conducted the performance evaluation at this meeting.